

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201339835
Issue No: 2006, 3008
Case No: [REDACTED]
Hearing Date: May 9, 2013
Branch County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on March 27, 2013. After due notice, a telephone hearing was held on May 9, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], an eligibility specialist, and [REDACTED], a supervisor, both with the department's Branch County office, and [REDACTED], a lead worker with the department's Office of Child Support.

ISSUE

Whether the Department of Human Services (department) properly determined that Claimant's Food Assistance Program (FAP) benefits should be reduced and her Medical Assistance (MA) benefits should be closed due to Claimant's group member's non-cooperation with the Office of Child Support?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was a recipient of FAP and MA benefits at all times relevant to this hearing.
2. On March 23, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605) informing her that, effective May 1, 2013, her FAP benefits would be decreased from \$905.00 to \$830.00 per month and her MA benefits would be closed because she or a group member had failed to cooperate with child support requirements. (Department Exhibit 1)

3. On March 27, 2013, Claimant submitted a hearing request protesting the department's reduction of her FAP benefits and closure of her MA benefits. (Request for a Hearing)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Food Assistance Program (FAP) was established pursuant to the Food Stamp Act of 1977, as amended, and is implemented by Title 7 of the Code of Federal Regulations (CFR). The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of CFR.

The Department of Human Services (DHS or department) administers these programs pursuant to MCL 400.10, *et seq.*, and pursuant to Mich Admin Code R 400.30001-3015, and MCL 400.105, respectively. Department policies for these programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

Department policy states that clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. Clients must take actions within their ability to obtain verifications and the department must assist clients when necessary. BAM 105. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties.

Moreover, clients must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. The department's philosophy is that families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court, and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255. Support includes child support, medical support, and payment for medical care from any third party. For purposes of this item, a parent who does not live with the child due solely to the parent's

active duty in a uniformed service of the U.S. is considered to be living in the child's home.

Cooperation is a condition of eligibility. The grantee and spouse, the specified relative/person acting as a parent and spouse, and the parent of the child for whom paternity and/or support action is required in the eligible group, are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending. Cooperation is required in all phases of the process to establish paternity and obtain support and includes all of the following:

- . Contacting the SS when requested.
- . Providing all known information about the absent parent.
- . Appearing at the office of the prosecuting attorney when requested.
- . Taking any actions needed to establish paternity and obtain child support (e.g., testifying at hearings or obtaining blood tests).

The department will be notified of a client's failure to cooperate by the SS or the child support noncooperation report. Upon receipt of this notice, the department starts the support disqualification procedure. The disqualification will not be imposed if any of the following occur during the negative action period:

- . The department is notified by the Office of Child Support (OCS) that the client has cooperated.
- . The case closes for another reason.
- . The noncooperative person leaves the group.
- . Support/paternity action is no longer a factor in the child's eligibility (e.g., the child leaves the group).
- . For disqualifications based on failure to return court-ordered support, the client cooperates with the requirement of returning court-ordered support payments or the support order is certified. BEM 255.

At application, a client has 10 days to cooperate with the OCS. Bridges informs the client to contact the OCS in the verification check list. The disqualification is imposed if the client fails to cooperate on or before the VCL due date when all of the following are true: there is a begin date of noncooperation in the absent parent LUW; there is not a subsequent comply date; support/paternity action is still a factor in the child's eligibility; and good cause has not been granted nor is a claim pending. BEM 255. If the client is cooperating at reapplication, but has not served the minimum one-month penalty for FIP

or FAP, Bridges determines eligibility for the month following the penalty month. BEM 255.

Failure to cooperate with child support requirements without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program. However, a pregnant woman who fails to cooperate may still be eligible for Medicaid. BEM 255.

Exceptions to the cooperation requirement for FIP, CDC income eligible, Medicaid and FAP programs are allowed for all child support actions except failure to return court-ordered support payments received after the payment effective date. Good cause is granted only if requiring cooperation/support action is against the child's best interests, and there is a specific "good cause" reason. If good cause exists, cooperation is excused as an eligibility requirement for the child involved, but it can still be required for another child in the same family. BEM 255.

Department policy requires the department to inform individuals otherwise eligible for the FIP, CDC Income Eligible, MA and FAP programs of the right to claim good cause by providing them with a DHS-2168, Claim of Good Cause – Child Support, at application, before adding a member and when a client claims good cause. BEM 255. The DHS-2168 explains the department's mandate to seek child support; cooperation requirements; the positive benefits of establishing paternity and obtaining support; procedures for claiming and documenting good cause; good cause reasons; penalties for noncooperation; and the right to a hearing. BEM 255.

Should a client claim good cause, both the department and the client must sign the DHS-2168 and the client must specify the type of good cause and the individual(s) affected. The department is responsible for determining if good cause exists and must not deny an application or delay program benefits just because a good cause claim is pending. The department must request that the client provide evidence of good cause within 20 calendar days of a claim and must allow an extension of up to 25 calendar days if the client has difficulty in obtaining the evidence. The department must make a good cause determination within 45 calendar days of receiving a signed DHS-2168 claiming good cause, unless a valid extension has been granted to the client.

In the instant case, Claimant is disputing the department's reduction of her FAP benefits and closure of her MA benefits due to a determination by the Office of Child Support that her group member (daughter) was in noncooperation with child support requirements.

At the May 9, 2013 hearing, Claimant testified that she and her daughter had made every effort to cooperate with the Office of Child Support in providing identifying information regarding the possible father of her daughter's child. Specifically, Claimant testified that she believed the Child Support Information sheets that her daughter had completed and she submitted to the Office of Child Support on January 25, 2013 were responsive to the OCS's January 12, 2013 Final Customer Contact Letter. Claimant

further testified that it was difficult for her to ensure that her daughter was continuing to fulfill her cooperation requirements with the OCS when the OCS was sending correspondence to her daughter, a fifteen-year-old minor, instead of to Claimant, the grantee on the FAP and MA cases.

The OCS representative testified at the hearing that, based upon her review of the documentation that Claimant had submitted to her OCS specialist on January 25, 2013, it was the OCS representative's determination that Claimant's OCS specialist had incorrectly documented the name that Claimant's daughter had provided as a possible father. Consequently, the OCS representative acknowledged that it was department error to have concluded that Claimant was therefore in noncooperation status as of March 23, 2013.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and substantial evidence presented during the May 9, 2013 hearing, particularly the OCS representative's acknowledgement of department error, finds that the department improperly reduced Claimant's FAP benefits and closed Claimant's MA benefits due to Claimant's group member's noncooperation with the Office of Child Support.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly reduced Claimant's FAP benefits and closed Claimant's MA benefits due to Claimant's group member's noncooperation with the Office of Child Support.

Accordingly, the department's actions are **REVERSED** and the department shall restore and reinstate Claimant's FAP and MA benefits for the benefit period effective May 1, 2013 and issue Claimant supplemental FAP and MA benefits for any months Claimant did not receive them if she was otherwise entitled to them.

IT IS SO ORDERED.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 10, 2013

Date Mailed: May 13, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal this Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - Misapplication of manual policy or law in the hearing decision,
 - Typographical errors, mathematical errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

201339835/SDS

Request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/aca

cc:

